

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY


(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 23 JUN 2005

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Applicant's or agent's file reference P63167PC00		<b>FOR FURTHER ACTION</b>		See Form PCT/PEA/416
International application No. PCT/NL2004/000219		International filing date (day/month/year) 01.04.2004	Priority date (day/month/year) 01.04.2003	
International Patent Classification (IPC) or national classification and IPC B65D71/36, B65D71/00, B65B11/10, B65B21/24				
Applicant HEINEKEN TECHNICAL SERVICE B.V.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input checked="" type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input checked="" type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand  06.08.2004		Date of completion of this report  22.06.2005		
Name and mailing address of the International preliminary examining authority:   European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		Authorized Officer Telephone No. +31 70 340- 3114 Bridault, A		



**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/NL2004/000219

**Box No. I Basis of the report**

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☒ This report is based on translations from the original language into the following language English, which is the language of a translation furnished for the purposes of:
    - ☒ international search (under Rules 12.3 and 23.1(b))
    - ☐ publication of the international application (under Rule 12.4)
    - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

**Description, Pages**

1-19 as originally filed

**Claims, Numbers**

1-27 as originally filed

**Drawings, Sheets**

1/13-13/13 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
    - ☐ the description, pages
    - ☐ the claims, Nos.
    - ☐ the drawings, sheets/figs
    - ☐ the sequence listing (*specify*):
    - ☐ any table(s) related to sequence listing (*specify*):
  4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
    - ☐ the description, pages
    - ☐ the claims, Nos.
    - ☐ the drawings, sheets/figs
    - ☐ the sequence listing (*specify*):
    - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

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PCT/NL2004/000219

**Box No. IV Lack of unity of invention**

1. ☒ In response to the invitation to restrict or pay additional fees, the applicant has:
- ☐ restricted the claims.
  - ☒ paid additional fees.
  - ☐ paid additional fees under protest.
  - ☐ neither restricted nor paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
- ☐ complied with.
  - ☒ not complied with for the following reasons:  
**see separate sheet**
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☒ all parts.
  - ☐ the parts relating to claims Nos. .

**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-25, 27
	No: Claims	26
Inventive step (IS)	Yes: Claims	1-25, 27
	No: Claims	26
Industrial applicability (IA)	Yes: Claims	1-27
	No: Claims	

2. Citations and explanations (Rule 70.7):

**see separate sheet**

**INTERNATIONAL PRELIMINARY REPORT  
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International application No.  
PCT/NL2004/000219

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**Box No. VI Certain documents cited**

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1. Certain published documents (Rule 70.10)

and / or

2. Non-written disclosures (Rule 70.9)

**see separate sheet**

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**Box No. VII Certain defects in the international application**

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The following defects in the form or contents of the international application have been noted:

**see separate sheet**

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
REPORT ON PATENTABILITY  
(SEPARATE SHEET)**

International application No.

PCT/NL2004/000219

**Re Item IV.**

The separate inventions are:

**Claims 1-25**

Package for containers with a reinforcement adjacent to the fold lines which connect the upper flaps to the side walls; blank for such a container

**Claims 26,27**

Apparatus for setting up packages where the blanks are not rotated during setting up.

They are not so linked as to form a single general inventive concept (Rule 13.1 PCT) for the following reasons:

The only features common to the subject-matter of independent claims 1 and 26 are the fact that the apparatus of claim 26 must be suitable for erecting the package of claim 1. An apparatus which is suitable for erecting such a package is known, see below. Therefore, said features are not the special technical features referred to in Rule 13.2 PCT.

The remaining features of claim 1 solve the problem of reinforcing the package against tearing when it is grabbed through the finger holes. The remaining features of claim 26 solve the problem of reducing the overall length of the packaging machine. There is obviously no link between these features.

**Re Item V.**

1 The following documents are referred to in this communication:

D1 : US 4 498 581 A

D2 : US 5 148 654 A

2 D1 discloses a package from which the subject-matter of claim 1 differs in that the two layers of sheet material are provided at the location of both the second and third fold lines. In D1, the package is double layered only on one of these lines.

The subject-matter of claim 1 is therefore novel.

- 3 The problem solved by the subject-matter of claim 1 can be seen in reinforcing the package further as compared to the prior art. The inventive activity of said subject-matter resides in the fact of having identified those places which need reinforcing.
- 4 Claims 2-18 depend on claim 1, and as such also meet the requirements of the PCT with respect to novelty and inventive step.
- 5 Claim 19 is directed to a blank for forming the package of claim 1, which implies that said blank must be such that, around the second and third fold lines, the material will have a double thickness. None of the prior art blanks has a top panel long enough for meeting this request. Therefore, the blank of claim 19 is novel.
- 6 For the reasons explained in connection with claim 1, the blank of claim 19 involves also an inventive activity.
- 7 Claims 20-25 depend on claim 19, and as such also meet the requirements of the PCT with respect to novelty and inventive step.
- 8 D2 discloses an apparatus which is suitable for setting up a package according to claim 1. Would the blank of claim 19 be used with such an apparatus, it would be erected to the package of claim 1 without having to change the apparatus. In this apparatus, the blanks remain in the same orientation during the whole erecting process. Therefore, the apparatus of claim 26 is not new.
- 9 Moving press-on heads as claimed in claim 27 are not suggested by the prior art. The subject-matter of claim 27 therefore meets the requirements of the PCT in respect of novelty and inventive activity.

**Re Item VII.**

- 1 Independent claims 1 and 19 are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(I) PCT) and with the remaining features being included in

the characterising part (Rule 6.3(b)(ii) PCT).

- 2 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 3 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 and D2 is not mentioned in the description, nor are these documents identified therein.

**Re Item VIII.**

Claim 26 does not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The claim attempts to define the subject-matter in terms of the result to be achieved (the blanks should not be rotated), which merely amounts to a statement of the underlying problem, without providing the technical features necessary for achieving this result. This would be solved by including the features of claim 27 into claim 26.